United Nations A/69/347

General Assembly

Distr.: General
25 August 2014

Original: English

Sixty-ninth session
Item 51 of the provisional agenda*
Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem

Report of the Secretary-General

Summary

The present report has been prepared by the Office of the United Nations High Commissioner for Human Rights pursuant to General Assembly resolution 68/83. It focuses on four main themes: an assessment of the impact of the wall and related measures in the light of the advisory opinion of the International Court of Justice of 9 July 2004 on the *Legal Consequences of a Wall in the Occupied Palestinian Territory*; Israel's practice of administrative detention; the human rights situation in Gaza; and accountability for reported excessive use of force by security forces. The report also provides an update of ongoing efforts to build the capacity of Palestinian institutions.

* A/69/150.

14-59696 (E) 090914

Please recycle

I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 68/83 and covers the period from 1 July 2013 to 15 May 2014. It is based primarily on monitoring and other information-gathering activities carried out by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations entities in the Occupied Palestinian Territory. It also contains information obtained from Israeli and Palestinian non-governmental organizations (NGOs), and from media sources.

2. The report does not provide a comprehensive account of all human rights concerns in the Occupied Palestinian Territory and should be read in conjunction with the report of the Secretary-General on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan (A/69/348) and other recent reports of the Secretary-General and the High Commissioner (A/HRC/25/38 and A/HRC/25/40 and Corr.1).

II. Legal framework

3. International human rights law and international humanitarian law are applicable in the Occupied Palestinian Territory. A detailed analysis of the legal obligations of Israel as the Occupying Power, the Palestinian Authority and the de facto authorities in Gaza can be found in the High Commissioner's first periodic report on the situation of human rights in the Occupied Palestinian Territory (see A/HRC/12/37, paras. 5-9).

4. On 23 April 2014, Fatah and Hamas agreed to form a government of national consensus, which was sworn in by President Mahmoud Abbas, under the leadership of Prime Minister Rami Hamdallah, on 2 June 2014. In April 2014, the State of Palestine acceded to 20 international treaties,[1] including eight human rights treaties, the Geneva Conventions of 12 August 1949, Additional Protocol I to the Geneva Conventions, the Hague Convention (IV) respecting the Laws and Customs of War on Land and the Regulations respecting the Laws and Customs of War on Land.

5. By acceding to these treaties, the State of Palestine has assumed legal obligations under international law, including reporting to various human rights treaty bodies. Notwithstanding, Israel, as the occupying power, remains bound by international human rights law and humanitarian law, while other relevant actors also remain bound by international law, as set out in the High Commissioner's first periodic report.

6. The Secretary-General commends the formal legal commitment of the State of Palestine to be bound by the international human rights standards contained in these treaties and to engage with the associated human rights treaty bodies that monitor their implementation.

[1] See http://nad-plo.org/userfiles/file/fact%20sheets/Q&A%20Accession.pdf.

III. Implementation of General Assembly resolution 68/83

A. Tenth Anniversary of the advisory opinion on the wall

7. With the tenth anniversary, on 9 July 2014, of the landmark advisory opinion of the International Court of Justice on the *Legal Consequences of a Wall in the Occupied Palestinian Territory* (see A/ES-10/273 and Corr.1; hereinafter "advisory opinion"), it seems timely to reflect upon some of the Court's key findings and the current situation in the Occupied Palestinian Territory.

8. As highlighted in previous reports of the Secretary-General and the High Commissioner (A/68/502 and A/HRC/25/40 and Corr.1), serious concerns remain regarding Israel's compliance with its "obligation to put an end to the violation of its international obligations flowing from the construction of a wall in the Occupied Palestinian Territory" (advisory opinion, para. 150). With the continued construction of the wall and the expansion of the illegal settlements (see A/69/348), Israel has further entrenched the violations of international law identified by the International Court of Justice in 2004 (see, e.g., CRC/C/ISR/CO/2-4, para. 7; CERD/C/ISR/CO/14-16, para. 24; and CCPR/C/ISR/CO/3, para. 16.

9. At the time of the Secretary-General's report to the Court in November 2003, the length of the sections of the wall either completed or under construction was approximately 180 km (see A/ES-10/248, para. 11). As of July 2013, approximately 62 per cent of the route approved by the Israeli authorities had been completed, with 10 per cent under construction — a total of approximately 512 km — almost three times the size of the wall considered by the Court in 2004. Construction on 28 per cent of the planned route of the wall has not yet begun (see (www.ochaopt.org/documents/ocha_opt_barrier_factsheet_july_2013_english.pdf.).

10. In its 2004 advisory opinion, the International Court of Justice made a number of key findings that remain relevant to the current situation.

Applicability of international human rights law to the Occupied Palestinian Territory

11. The Court underlined that "the protection offered by human rights conventions does not cease in case of armed conflict, save through the effect of provisions for derogation of the kind to be found in Article 4" of the International Covenant on Civil and Political Rights (advisory opinion, para. 106; see also CCPR/C/ISR/CO/3, para. 5). Thus both international human rights law and international humanitarian law are applicable in times of armed conflict, including situations of belligerent occupation.

12. Further, in response to Israel's assertion that international human rights law was not applicable to the Occupied Palestinian Territory, the Court affirmed the contrary, observing that the "territories occupied by Israel have for over 37 years been subject to its territorial jurisdiction as the occupying power", thus making the international human rights conventions to which Israel is party applicable to the

Occupied Palestinian Territory (advisory opinion, para. 112; and CCPR/C/ISR/CO/3, para. 5). Israel continues to dispute this.[2]

Illegality of territorial acquisition by force

13. The Court further reaffirmed the "illegality of territorial acquisition resulting from the threat or use of force" (advisory opinion, para. 87). It held that "the construction of the wall and its associated regime create a 'fait accompli' on the ground that could well become permanent", which "would be tantamount to de facto annexation" (ibid., para. 121). This conclusion is of increased pertinence given the expansion and entrenchment of the wall and settlements.

Self-determination

14. The Court also emphasized that the construction of the wall, with its associated regime and other measures including settlements, "severely impedes the exercise by the Palestinian people of its right to self-determination, and is therefore a breach of Israel's obligation to respect that right" (ibid., para. 122). The Court drew attention to the "illegal measures taken by Israel with regard to Jerusalem and the settlements, as deplored by the Security Council", the impact of the wall and associated regime on the rights of Palestinians, and the fact that "a significant number of Palestinians have already been compelled by the construction of the wall and its associated regime to depart from certain areas" (ibid., para. 133). The Court condemned these practices, underlining that these measures were "tending to alter the demographic composition of the Occupied Palestinian Territory" (ibid.).

15. In its advisory opinion, the Court focused on the wall, but as the Secretary-General pointed out in paragraphs 5 to 28 of his report (A/68/502), a number of Israeli policies and practices continue to undermine the right of the Palestinian to self-determination. These include the combined effects of: Israel's blockade of Gaza (ibid., paras. 30-34; and A/HRC/25/40 and Corr.1, paras. 24-30); the closure regime in the West Bank, including the continued construction of the wall; the access restricted areas in Gaza (see A/68/502, paras. 35-39; and A/HRC/25/40 and Corr.1, paras. 3-37); demolition and/or confiscation of Palestinian structures, including residential, and the eviction of their inhabitants (see A/68/502, paras. 23-26 and A/HRC/25/40 and Corr.1, paras. 18-22); the transfer of Israeli citizens into occupied territory (see A/68/502, para. 16, and A/69/348); the revocation of residency rights of Palestinians in East Jerusalem (see A/HRC/25/40 and Corr.1, para. 23); control of the population registry (see CRC/C/IRS/CO/2-4, paras. 29 and 30); and the use of Palestinian natural resources.

Illegality of settlements

16. Part of the Court's concern derived from the "sinuous" route of the wall, which "has been traced in such a way as to include within that area the great majority of the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem)" (advisory opinion, para. 119). The Court conclusively found that the "Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem)

[2] See CCPR/C/ISR/4, paras. 45-48. The Israeli Supreme Court has, at times, taken into account international human rights law in relation to the Occupied Palestinian Territory. The second report of the Turkel Commission affirmed that in an occupation the default norms regulating the use of force are those of law enforcement (see para. 60 below).

have been established in breach of international law" (ibid., para. 120). This situation has significantly deteriorated since the advisory opinion was issued. The settler population in the West Bank, including East Jerusalem, has grown from approximately 416,000 in 2004, to between 500,000 and 650,000 by the end of 2012 (see A/69/348, sect. III).

Freedom of movement, agriculture and food

17. A key component of the wall is what is known as the permit and gate regime. In 2004, the International Court of Justice raised the issue of the "establishment of a closed area between the Green Line and the wall itself and the creation of enclaves", and the associated restrictions on freedom of movement which "are aggravated by the fact that the access gates are few in number in certain sectors and opening hours appear to be restricted and unpredictably applied".

18. This situation has worsened since 2004, with the extension of the wall, affecting both, those seeking to leave the area between the Green Line and the wall (the "seam zone"), and those seeking to access their land in the seam zone. While comprehensive data on the number of permits granted is not available, the approval rate in the northern West Bank in 2013 was approximately 50 per cent, consistent with figures collected by the Office for the Coordination of Humanitarian Affairs over the preceding three years.[3] Further, of 81 gates designated for agricultural access, only nine open daily; an additional nine open on some weekdays; and the majority (63) open only during the olive harvest season, for approximately 45 days per year.[3]

19. This has had "serious repercussions for agricultural production", as the Court emphasized in 2004, citing the report of the Special Rapporteur on the right to food who had stated that the wall "cuts off Palestinians from their agricultural lands, wells and means of subsistence" (advisory opinion, para. 33). The level of access is not enough for farmers to carry out adequate maintenance on their land and to their crops, with data showing that "olive trees in the seam zone have seen a reduction of between 40 and 60 per cent in yield compared to equivalent trees" on the other side of the wall.[3]

20. Some parts of the wall have been rerouted as a result of Israeli court decisions, such as in Bil'in (decision of 2007) and currently in Jayyus (decision of 2009), leading to some improvements in Palestinians' access to social services and agriculture. However, these modifications, which are in compliance with decisions by the Israeli High Court of Justice rather than the advisory opinion of the International Court of Justice, leave the rerouted sections of the wall within the West Bank rather than along the Green Line or in Israel. While restoring the communities' links to health and education services, they frequently restrict their access to the agricultural land on which their livelihoods depend.[4]

[3] Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, *Humanitarian Bulletin Monthly Report*, February 2014, available from www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_03_19_english.pdf.

[4] Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, *Humanitarian Overview 2013: Fragmented Lives* March 2014.

Impact of the wall on the rights to health and education

21. The International Court of Justice also emphasized how the construction of the wall and its associated regime "led to increasing difficulties for the population concerned regarding access to health services, educational establishments and primary sources of water" (advisory opinion, para. 133). Again, since 2004, there has not been any significant improvement in this situation as the wall has expanded.

22. While there have been some reroutings that have reconnected Palestinian communities with the rest of the West Bank, it is estimated that some 11,000 Palestinians still have to pass through checkpoints to access education, health and other services.[5] In its most recent concluding observations on Israel in July 2013, the Committee on the Rights of the Child highlighted both, the shortage of school infrastructure across the Occupied Palestinian Territory and some incidents of attacks on schools and harassment of children on their way to school by Israeli security forces and settlers (see CRC/C/ISR/CO/2-4, paras. 63-64).

Demolitions and forcible transfer

23. The Court further expressed concern that "the construction of the wall has led to destruction or requisition of properties under conditions which contravene the requirements of Articles 46 and 52 of the Hague Regulations of 1907 and of Article 53 of the Fourth Geneva Convention" (advisory opinion, para. 132).

24. While the Court focused on the issue of destruction or requisition of properties in the context of the wall, as the Secretary-General and the High Commissioner have highlighted on a number of occasions, the issue of demolitions is a concern across the West Bank, including East Jerusalem. The situation is of heightened concern in relation to the most vulnerable populations in the Jordan Valley, Jerusalem area and South Hebron Hills (see A/69/348, sect. III).

25. During the reporting period, 570 structures (221 Palestinian homes and 349 livelihood-related structures) were demolished by the Israeli authorities in the West Bank, including East Jerusalem, on the grounds that they lacked building permits. This represents a 24 per cent increase compared with the equivalent period in 2012 (461 structures). As a result, 1,048 persons, including 560 children, were forcibly displaced.[6]

26. Of particular concern was the demolition of all the homes and livelihood structures (118) of four communities in Bir Nabala, Az Za'ayyem, Mak-hul and Ein Ayoub in the Jerusalem, Ramallah and Tubas governorates, resulting in the displacement of the entire communities, comprising over 180 persons, over half of them children (see also A/HRC/25/40 and Corr.1, paras. 18-22). In some of these cases, the destruction of property and the permanent displacement of the communities from their initial locations may amount to violations of the prohibition of forcible transfer and destruction of property under articles 49 and 53 of the Fourth Geneva Convention.

[5] Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, *Humanitarian Bulletin Monthly Report*, April 2014, available from www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_05_21_english.pdf.

[6] Source: Office for the Coordination of Humanitarian Affairs.

Ten years after the advisory opinion

27. Thus, 10 years after the International Court of Justice gave its advisory opinion, the situation has further deteriorated. The Court underlined that Israel remains "obliged to comply with the international obligations it has breached by the construction of the wall in the Occupied Palestinian Territory" (advisory opinion, para. 149), and "to put an end to the violation of its international obligations", emphasizing the well-established "obligation of a State responsible for an internationally wrongful act to put an end to that act"(ibid., para. 150) Accordingly, it affirmed Israel's obligation within the Occupied Palestinian Territory to cease the construction of the wall and dismantle the parts already constructed, as well as provide reparation, including restitution and compensation, to victims (ibid., paras. 151-154). To date, Israel has failed to comply with the various components of the Court's decision.

B. Palestinians in Israeli administrative detention (see A/HRC/25/40 and Corr.1, paras. 40-43 and A/HRC/24/30, sect. IV)

28. According to non-governmental sources, by the end of April 2014, some 191 Palestinian administrative detainees were held in facilities run by the Israel Prison Service.[7] In protest against their continued administrative detention without charge or trial, approximately 90 detainees went on hunger strike on 24 April 2014. This number rose to at least 125 hunger-strikers by the end of May 2014. On 18 May 2014, while the hunger strike was ongoing, a bill amending the Prisons Act to allow, under certain conditions, for detainees on hunger strike to be force-fed and given medical treatment against their will was approved by the Ministerial Committee on Legislation, one of the early procedural stages in the Israeli legislative process.

29. The Secretary-General has consistently called for administrative detainees to be allowed to challenge their detention and, in the absence of formal charges, to be released without delay. He has also called on the Government of Israel to conduct an independent and thorough review of its policy of administrative detention, with a view to terminating this policy. It is of concern that Israel is considering a legislative amendment that would permit the force-feeding and medical treatment of prisoners on hunger strike under certain conditions, which contravenes international standards.[8]

C. Gaza

Gaza blockade

30. Israel continued to impose a blockade of Gaza in violation of international law (A/HRC/24/30, paras. 21-23), including by severely restricting movement into and

[7] www.btselem.org/statistics/detainees_and_prisoners.

[8] The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment considers force feeding a form of ill-treatment that could amount to torture: See Expert Meeting on Guantanamo Bay, 3 October 2013, at www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=13859&LangID=E. See also World Medication Associations' Declaration of Malta (2006) and Declaration of Tokyo (1975).

out of Gaza, and transfers of goods to and from the West Bank, as well as exports abroad. Imports are also subjected to considerable restrictions. This situation has adversely impacted the rights of Palestinians in Gaza, specifically their rights to education, health, work, housing and an adequate standard of living (see A/68/502, paras. 5-16). Israel's restrictions on movement between the West Bank and the Gaza Strip also continued to sever family ties and inhibit social interaction.[9]

31. Given the Israeli-imposed restrictions, Gaza residents have relied heavily on transit and trade with Egypt through the Rafah crossing as well as through tunnels used to smuggle goods. However, since July 2013, the Egyptian authorities have severely restricted travel through Rafah — with the passage of persons in both directions dropping by 76 per cent from the first to the second half of 2013 — and have destroyed most smuggling tunnels.[4] This has resulted in shortages of affordable fuel, construction materials, medicine and other goods in Gaza.

32. Restrictions at the Rafah crossing have led to increased Palestinian demand to use the Erez crossing into Israel. On average, 36 per cent more Palestinians crossed through Erez in the period following July 2013 compared to the first half of 2013.[10] Although more Palestinians crossed through Erez, Israel's restrictions,[11] in terms of categories of persons or reasons for which Palestinians may cross, remained the same, falling significantly short of Palestinians' need to travel through Erez. The slight increase of imports through the Kerem Shalom crossing between July and October 2013 following the destruction of tunnels[12] was not sustained, due to the repeated closure of the crossing[13] and the restrictions imposed, including by limiting volumes and types of materials allowed into Gaza. Additionally, average monthly imports following November 2013 declined by 19 percent in comparison to the first half of 2013.

33. Israel's lengthy approval process with respect to international reconstruction projects continues to hinder urgent humanitarian responses, and considerably increases project costs.[4] The situation was aggravated when, in October 2013, Israel prohibited the import of construction material for international organizations following the discovery of an underground tunnel from Gaza into Israel, before again partially allowing such imports as of December 2013. This disrupted the implementation of approved international projects.[4,14] At the same time, Israel also reinstated its prohibition on construction material imports for the private sector, which paralysed the construction industry, which employed about 24,000 people.[15]

---

[9] Hamoked, B'Tselem, *Implications of Israeli-Imposed Seclusion of Gaza Strip on Palestinians' Right to Family Life*, January 2014, available from www.hamoked.org/files/2013/1158150_eng.pdf.

[10] Source: Gisha, 29 April 2014.

[11] In October 2013, Israel refused to introduce arrangements for movement to and from the Gaza Strip following events in Egypt, stating "reduced activity at Rafah Crossing does not impose on Israel increased responsibilities beyond the humanitarian minimum required by the laws of war". See www.gisha.org/UserFiles/File/letters/letter-re-rafah-17.11.13.pdf; http://www.gisha.org/item.asp?lang_id=en&p_id=2130.

[12] Gaza imports through Kerem Shalom during the reporting period stand at 36 per cent of the pre-closure level. Source: Office for the Coordination of Humanitarian Affairs.

[13] Kerem Shalom crossing was closed for 104 days during the reporting period.

[14] See UNSCO Security Council Briefings, 29 April and 20 May 2014, available from www.unsco.org/scb.asp.

[15] Prior to the blockade, construction supplies constituted more than half of the total imports into Gaza. See pbf.org.ps/site/?q=pages/prnt/1498/.

Gaza's exports continue to be restricted despite the installation of a scanner for containers at the Kerem Shalom crossing,[4,16] and remained at just under 2 per cent of the pre-closure level.[6] These measures have had a direct impact on Palestinians' enjoyment of numerous rights, including their rights to an adequate standard of living, to education and to work.

34. The cumulative impact of Israel's blockade and Egyptian restrictions has had a detrimental effect on the rights of Palestinians, particularly to work, food and health. Unemployment in the Gaza Strip increased from 27.9 per cent in the second quarter of 2013 to 40.8 per cent in the first quarter of 2014.[4,17] Over a million people in the Gaza Strip live in food-insecure households, and at least 80 per cent of the population depend on aid.[18] Owing to the socioeconomic situation, 45 per cent of the Palestinian families suffer from post-traumatic stress disorders.[19]

Access-restricted areas

Excessive use of force

35. Access-restricted areas in Gaza are designated by the Israeli Defense Forces (IDF) as no-go areas for Palestinians, generally enforced up to at least 300 metres inside Gaza from the fence between Gaza and Israel (see A/68/502, para 17; A/HRC/25/40 and Corr.1 para 31). During the reporting period, six unarmed Palestinians were reportedly killed and 121 were injured by IDF in the access-restricted areas on land in areas up to and beyond 300 m (up to 700 m) from the fence; and seven fishermen were allegedly injured at sea. Compared with the equivalent period for the previous year, in which seven people were reportedly killed and 60 injured, it is of concern that the number of injured in the access-restricted areas on land has increased significantly, while there was only one less fatality.[20]

36. For instance, on 13 February 2014, in an incident similar to others monitored by OHCHR, a 36-year-old rubble collector, who was working a few hundred metres from the fence in Shijaiya, eastern Gaza City, was shot in the head and killed. Information collected by OHCHR indicates that the use of force by IDF was unlawful as the man was unarmed and did not pose any threat when he was shot, reportedly without warning.

37. During the reporting period, 84 of the 121 Palestinians were injured by IDF in the context of demonstrations in the access-restricted areas, 48 of them reportedly by live ammunition Particular concerns arise regarding the IDF response to a series of demonstrations in Jabalia, northern Gaza Strip, which took place mainly between November 2013 and April 2014. The demonstrations were reportedly attended at times by large numbers of unarmed demonstrators, some of whom apparently

---

[16] See www.haaretz.com/news/diplomacy-defense/.premium-1.562465.

[17] Palestinian Central Bureau of Statistics, www.pcbs.gov.ps/pcbs_2012/PressEn.aspx; and World Bank, September 2013, siteresources.worldbank.org/INTWESTBANKGAZA/Resources/EconUpdateSeptember2013.pdf.

[18] World Food Programme, *Is the closure of the tunnels from Egypt further suffocating the Gaza economy?* February 2014. Available from http://documents.wfp.org/stellent/groups/public/documents/ena/wfp262728.pdf.

[19] Source: World Health Organization. See also www.al-monitor.com/pulse/originals/2014/05/gaza-mental-illness-increase.html.

[20] Source: Occupied Palestinian Territory Protection Cluster.

approached the fence and threw stones, while others stood by. IDF responded with tear gas and live ammunition, and sometimes rubber bullets.

38. According to information received by OHCHR, the use of live fire appears to have been unlawful as the demonstrators did not pose an imminent threat to IDF and were unarmed and separated from IDF, at times by both a concertina razor wire fence and the main separation fence.

Fishermen in Gaza

39. The means used by the Israeli navy to enforce the imposed restrictions[21] at sea, including through live fire, continued to put fishermen physically at risk (see also A/68/502, para. 19, A/HRC/25/40 and Corr.1, paras. 33-37, A/HRC/24/30, paras. 14-19). The authorities also regularly arbitrarily detained fishermen and confiscated or damaged their private property, including fishing boats and equipment. Between 1 July 2013 and 30 April 2014, 19 fishermen were detained and 7 injured;[20] 11 fishing boats were confiscated and 11 were damaged; the power generators of 14 boats were destroyed or damaged; fishing equipment of numerous boats, and approximately 600 pieces of fishing nets, were damaged by the Israeli Navy.[22] The restrictions and their enforcement have continued to devastate the Palestinian fishing industry (see A/68/502, para. 19), having a direct impact on the economic and social rights of Palestinians in Gaza, particularly the rights to work, to an adequate standard of living and to food. It also significantly impacts the right of the community in Gaza to freely dispose of their natural wealth and resources.

Hostilities in Gaza

40. According to the Department of Safety and Security of the Secretariat, during the reporting period, 65 airstrikes were conducted by the Israeli air force, 19 tank shells were fired and 43 incursions were conducted in Gaza. Between 1 July 2013 and 30 April 2014, at least 53 civilians, including 12 children and 3 women, were injured, and 2 civilians, including 1 child, were killed owing to conflict-related violence in Gaza,[6] raising concerns with regard to the principles of distinction, proportionality and precautions in attack.[23]

41. On 24 December 2013, a house in Al-Maghazi refugee camp, located around 700 m from the fence, was hit by three tank shells, which resulted in the killing a three-year-old girl and injured three of her family members, including one woman and two children. The shelling took place a few hours after an Israeli civilian, reportedly an Israeli Defense Ministry contractor, was killed close to the fence, allegedly by a Palestinian sniper.[24] OHCHR was not able to identify any potential military objective, in the house or its immediate vicinity, which raises serious concerns with regard to possible violations of the international humanitarian law principle of distinction and the right to life.

---

[21] Since November 2012 Israel has imposed a fishing limit at 6 nautical miles, with an additional 1.5 nautical mile "no-fishing-zone" within Palestinian waters between Gaza and Israel.

[22] Source: Union of Agricultural Work Committees.

[23] Not including access-restricted areas; see paras. 35-39 above.

[24] www.jpost.com/Defense/IDF-strikes-six-Gaza-targets-in-retaliation-to-shooting-of-Defense-Ministry-employee-336058.

42. During the reporting period, at least 122 rockets and 53 mortar shells were fired from Gaza towards Israel, including 7 rockets that were intercepted by Israeli missile defence systems. An additional 78 rockets dropped short and landed in Gaza, while 43 rockets exploded at their launching site and 98 test rockets were fired towards the sea. While no civilian injuries or deaths in Israel were reported in the context of rocket fire from Gaza towards Israel, these rockets do not allow their operators to distinguish between military targets and civilians. They are therefore indiscriminate in nature and in violation of international law.

43. In Gaza, one female Palestinian civilian was killed and six were injured, including three children, owing to rockets falling short of their intended objective inside Israel.[6] On 13 March 2014, a rocket fired by a Palestinian armed group towards Israel landed in Beit Hanoun, northern Gaza Strip, hitting a family home, killing a 62-year-old woman, and injuring at least two others, including a three-year-old child. The death and injury of civilians and damage to civilian property from indiscriminate rockets constitutes a violation of international humanitarian law (see A/HRC/22/35/Add.1, para. 39).

D. Excessive use of force by Israeli security forces in the West Bank, including East Jerusalem

44. The Secretary-General and the High Commissioner have repeatedly raised concerns regarding excessive use of force by Israeli security forces in the Occupied Palestinian Territory, notably in the West Bank, including East Jerusalem.

45. During the reporting period, 30 Palestinians died and 2,019 were injured in incidents involving Israeli security forces in the West Bank, including East Jerusalem.[25] This constitutes a notable increase in fatalities compared to the 13 Palestinians killed and 3,896 injured in the area between 1 July 2012 and 30 May 2013.

46. Of growing concern is the increased use of live ammunition by Israeli security forces, particularly during search and arrest operations in refugee camps, which has led to a significant increase in fatalities.[26] Indeed, a dramatic increase in the use of lethal force in search and arrest operations resulted in 13 persons killed during the reporting period, while there were none in the corresponding period for the previous year.

47. At the same time, the overall number of those injured declined significantly, mainly in the context of demonstrations. In all types of incidents, the number of persons injured from tear gas inhalation dropped to 586 (compared with 1,972 during the corresponding period 2012-2013) and the number of those wounded by rubber-coated metal bullets fell to 769 compared with 1,338. However, injuries caused by live ammunition more than doubled (238 compared with 114).[6]

48. OHCHR documented several incidents of concern during the reporting period: On 26 August 2013, three Palestinians were shot and killed during a search and arrest

[25] Source: Office for the Coordination of Humanitarian Affairs and UNRWA. The injured included tear gas victims. Not included: Palestinian who died during reporting period from wounds sustained earlier.

[26] Source: UNRWA. During the reporting period, 18 refugees were killed, three times the number killed during the same period in the previous year.

operation in Qalandiya refugee camp; on 19 October 2013, one Palestinian was shot and injured while trying to cross the wall into Israel near Meitar terminal in Hebron; on 31 October 2013, one reportedly unarmed market worker at Qabatiya market was shot and killed as IDF responded to alleged stone throwing when passing through a market following an arrest operation; and on 7 December 2013, a 14-year-old child was shot near al-Jalazun refugee camp, from at least 150 m, although apparently posing no threat to the Israeli security forces present. (see A/HRC/25/40 and Corr.1, paras. 9-12). According to information available to OHCHR, in none of these cases did the victims pose an imminent threat to life or serious injury to the Israeli security forces or anyone else at the time of the incidents.

49. In addition, the Secretary-General is concerned about the death of two teenagers, shot at Beituniya in the West Bank, on 15 May 2014, in demonstrations commemorating what Palestinians call "Nakba day". OHCHR initial findings, based on eyewitness accounts, reviews of medical reports, still photos, closed-circuit television footage and other sources, indicate that the Israeli security forces faced no threat at the time when the two boys were killed. Both teenagers were at least 120 m away from the Israeli security forces and not engaged in any hostile activity at the time they were killed. One of the boys was shot in the back as he walked away from the security forces, while the other was shot in the chest as he walked along the street. The killings may amount to extrajudicial executions under international human rights law and wilful killings under international humanitarian law.

50. On 23 March 2014, a 14-year-old child was killed near Deir al-Asal, as he attempted to cross the wall, apparently to gather plants. According to the information available, the boy was shot by soldiers without warning and while posing no threat. According to the Israeli authorities, at the end of the reporting period investigations had been opened into this incident as well as into the one at Beituniya on 15 May.

51. The pattern and type of incidents documented raise questions as to whether rules of engagement in use by Israeli security forces are in compliance with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials of 1990, or whether there is an ongoing failure to implement and enforce lawful rules of engagement. Under international human rights law, the use of force must be necessary and proportionate. The use of firearms is only permitted in extremely limited circumstances, primarily in self-defence or defence of others against imminent threat of death or serious injury. In any event, the intentional lethal use of firearms is only permissible when strictly unavoidable in order to protect life.[27]

E. Accountability for alleged violations of international law by Israeli security forces

52. The incidents described above add to the Secretary-General's repeated concerns regarding Israeli accountability for violations of international human rights and humanitarian law, especially cases of killings and injuries in the West Bank, including East Jerusalem, in the access-restricted areas, and in relation to the hostilities in Gaza (see A/68/502, paras. 29-35; A/HRC/24/30, paras. 46-48,

[27] Principle 9 of the Basic Principles.

A/HRC/25/40 and Corr.1, paras. 50-56). Under international law, Israel is obliged to investigate alleged violations of international human rights and humanitarian law and to bring those responsible to justice.[28] It must also ensure that victims have access to a prompt, adequate and effective remedy.[29]

53. As noted below, even if Israeli authorities announce investigations following some incidents, Israeli security forces rarely face prosecution or sentences commensurate with the gravity of the crimes (see A/HRC/25/40 and Corr.1, paras. 50-56; A/HRC/24/30, paras. 48-50; A/68/502, paras. 29-35). In addition, victims, especially in Gaza, face numerous obstacles to an effective remedy and compensation. There is concern that this degree of impunity contributes to the repetition of the type of incidents involving the death and injury of Palestinians described above.

Criminal accountability

Opening of investigations

54. According to information available, during the reporting period the Israeli Military Advocate General opened investigations into at least 10 out of the 30 Palestinian fatalities in incidents involving Israeli security forces in the West Bank, including East Jerusalem.[30]

55. As previously reported, in 2011, the Military Advocate General — which is responsible for investigating alleged IDF wrongdoing — announced an improved policy pursuant to which criminal investigations are automatically opened in the West Bank into incidents involving fatalities, unless there is evidence of what the Military Advocate General describes as "combat" activity. While, the policy change appears to have led to the opening of more investigations, it has not led to effective accountability. According to an NGO, of 45 cases of Palestinians killed in the West Bank since 2012, only 23 investigations have been launched, and only one indictment has been served so far.[31]

56. By the end of the reporting period, no criminal investigations had been opened into allegations of violations of international humanitarian law in Gaza by IDF during the escalation of November 2012, although two fact-finding committees were formed to investigate specific incidents.[32] A similar situation prevails in relation to almost all incidents in Gaza, whether part of the escalations or not. Moreover, OHCHR is not aware of a single criminal investigation having been opened into any

[28] See CCPR/C/21/Rev.1/Add.13, paras. 15-18; and International Committee of the Red Cross, Customary International Humanitarian Law Study, 2005, rule 158.

[29] See art. 2(3) of the International Covenant on Civil and Political Rights; and principle 11(b) of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly resolution 60/147, annex).

[30] Not included: a Palestinian who died in the reporting period from wounds sustained earlier, into which the Military Advocate General had opened an investigation.

[31] www.btselem.org/firearms/20140526_bitunya_killings_full_video_documentation.

[32] www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=10103:concerning-qpillar-of-defenseq-victims-for-the-first-time-israeli-committee-headed-by-general-doron-almog-initiates-investigation-in-a-case-followed-up-by-pchr&catid=36:pchrpressreleases&Itemid=194.

of the incidents of killings in the access-restricted areas during the reporting period, despite indications of excessive use of force.[33]

Conduct of investigations

57. Concerns have been raised not only about whether investigations are opened, but also how they are conducted. A key concern is the so-called operational debriefing, which is an initial inquiry overseen by the IDF unit commander involved in the incident soon after it took place. The operational debriefing lacks independence, as it is run by the commander of the unit involved in the incident, and human rights organisations have been raising concerns regarding the Military Advocate General's reliance on such an inquiry. Further, they have also argued that the operational debriefing allows soldiers involved in incidents to coordinate testimonies and potentially hinder future investigations.[34]

58. There are often significant delays when investigations are opened, and even where opened, investigations rarely result in justice for the victim (see A/HRC/25/40 and Corr.1, para. 54). The issue of delay can severely impact the effectiveness of investigations, making it difficult to find eye-witnesses, ascertain the facts or even to allow for a proper prosecution as the alleged perpetrator may have left the IDF and no longer be subject to the same jurisdiction and rules.[35]

59. In the cases of Lubna al-Hanash and Samir Awad (ibid., paras. 40 and 42), who were killed in January 2013, in incidents involving Israeli security forces, with a strong suspicion of wrongdoing, an Israeli NGO petitioned the High Court in March and April 2014, seeking a decision in the investigation.[36] In the case of Mustafa Tamimi, who was killed in 2011, after being shot with a tear gas canister while throwing stones during a demonstration, it took the Military Advocate General almost two years before deciding to close the investigation.[37] Other concerns highlighted over a number of years include the failure to interview eye witnesses, failures to go to the scene of the incident and the lack of expertise of those carrying out the investigations.[38]

Reform of investigative and criminal accountability mechanisms: the Turkel Commission

60. Some steps recently taken by Israel have acknowledged some of these concerns. The Turkel Commission represents some hope for initial reform of the system (see A/68/502, para. 29). Following the killing of nine civilians by IDF during an interception at sea of a humanitarian flotilla sailing from Turkey to Gaza,

[33] Very few investigations have been opened into injury cases. See paras. 35-38 above; and A/HRC/25/40 and Corr.1, para. 32.

[34] Yesh Din, "Alleged investigation", August 2011; and Israel Democracy Institute, Response to the Military Advocate General's position paper on the investigations of allegations of violations of international humanitarian law, 10 February 2011, paras. 38-40.

[35] E.g. Jarusheh et al. v. Military Advocate General, et al., HCJ 5772/12, 18 July 2013.

[36] www.btselem.org/press_releases/20140327_samir_awad_investigation_petition and www.btselem.org/press_releases/20140410_lubna_al_hanash_investigation_petition.

[37] The Military Advocate General closed the investigation on 5 December 2013. See www.btselem.org/press_releases/20131205_mag_closes_file_on_mustafa_tamimi_killing; see also A/67/372, paras. 23-24.

[38] Yesh Din, Alleged Investigation, August 2011; see also www.hamoked.org/Document.aspx?dID=211_update.

the Turkel Commission was established in June 2010 with a mandate to review the mechanisms used by Israel for investigating complaints of violations of the laws of armed conflict. In January 2014, the Government of Israel decided to set up a committee to examine implementation of the recommendations of the Turkel Commission almost one year after the publication of the second Turkel report in February 2013. The committee is scheduled to report back in September or October 2014. If implemented, the recommendations of the Turkel Commission would be a good first step towards remedying some of the flaws in the system.[39]

Compensation

61. While a small number of victims of violations of international human rights and humanitarian law are able to obtain compensation, many are prevented from doing so by sweeping legal exemptions barring them from making their claims, high costs or difficulties to obtain Israeli permits to travel for legal procedures.

Sweeping "act of war" exemption

62. Many victims' claims are completely barred from consideration by Israeli judges. The "act of war" exemption bars victims from making claims against the Government for actions taken in the course of "combat[ing] terror, hostile acts or insurrection." Various amendments to the law in recent years have expanded the definition even more broadly.[40]

63. The exemption operates to bar a victim's claim, even where there is a strong argument that a violation of international law has been committed.[41] For example, among the cases dismissed on this basis is that of an elderly man who was killed inside his home when it was bulldozed by IDF in Gaza in 2004. The "act of war" exemption acted to bar any argument by the claimant that the Israeli security forces had acted unlawfully under international law.[42] OHCHR is aware of similar cases in both the West Bank and Gaza.

64. While the courts' application of the exemption has not always been consistent, it is one of the primary obstacles to claims by victims.

High costs, physical, procedural and other legal obstacles

65. Victims face an array of other obstacles to making a claim. These include prohibitive costs, in the form of a requirement to pay Israeli court guarantees, which stop many cases in their tracks from the outset, especially cases originating in Gaza. Statutes of limitations also operate, in contravention of the Basic Principles on the

[39] Some NGOs have highlighted shortcomings in the Turkel Commission's recommendations. See e.g., B'tselem: www.btselem.org/download/position_paper_on_turkel_report_eng.pdf; Adalah: www.adalah.org/eng/Articles/2134/Briefing-Paper-on-The-Turkel-Report-%E2%80%93-Part-II; and the Public Committee against Torture in Israel: www.stoptorture.org.il/files/PDF%20Adalah%20PCATI%20PHR%20Statement%20The%20Turkel%20Report%2028.2.2013.pdf.

[40] Including Amendment Nos. 4 (1 August 2002) and 8 (16 July 2012) to the Civil Wrongs (Liability of the State) Law, 5712-1952.

[41] Art. 5, Civil Wrongs (Liability of the State) Law, 5712-1952; see e.g. Case no. 36526-10-12 (Beersheva Magistrates Court) *Mahmoud Mohamad Khalaf et al. v. The State of Israel*, Decision 16 September 2013.

[42] Civil case (Beersheva Magistrates Court) 36526-10-12 *Mahmoud Mohamad Khalaf et al. v. The State of Israel*. Decision, 16 September 2013.

Right to a Remedy,[29] to bar claims if filed later than two years after the alleged incident. This compares to a seven-year limitation on filing an ordinary tort claim in Israel.

66. In addition, particularly in Gaza, claimants face physical barriers, such as the refusal of permission to leave Gaza to meet their lawyer to sign legal documents. Very few have managed to obtain permission to meet their lawyers at Erez crossing between Israel and Gaza.

67. Many cases also fail because of the requirement under the Civil Procedure and Evidence Law that medical reports be produced by an Israeli doctor, while the victims are rarely able to leave Gaza to get the report. Similarly, and most critically, witnesses are almost never able to travel to testify at court in Israel, owing to the requirement of Israeli-controlled permits, and many cases remain pending for years in stasis for this reason.[43] New procedures presented in April 2013 to regularize this process do not acknowledge the right of victims to physically access the courts.

Compensation — a broken system

68. Compensation is paid in some cases. Publicly available information indicates that there are cases of victims receiving compensation, but usually many years later — including one uncommon case in Gaza where the families of three boys killed close to the fence in 2001 received a settlement in October 2013, but no declaratory judgement.[44] These are much rarer in Gaza than in the West Bank, and are usually the result of a settlement between the parties rather than a court decision.

69. However, when taken as a whole, especially in Gaza, the cumulative effects of the "act of war" exemption, the high costs and the physical and procedural obstacles to accessing the courts, effectively deprive victims of their right to a remedy. In the current system, victims in Gaza have almost no effective way of obtaining reparation for violations of international human rights and humanitarian law.

F. Strengthening Palestinian institutions

Accountability for alleged violations by Palestinian security forces

70. Concerns remain about the lack of accountability and transparency in relation to investigations into incidents of alleged killing, torture and ill-treatment involving Palestinian security forces (see A/HRC/25/40 and Corr.1, para. 57). Out of five investigative committees established in 2012 to look into various allegations (ibid.; see also A/68/502, paras. 44-47), to date the report of only one committee was published,[45] and it did not include details of action taken against the perpetrators.

71. During the reporting period, OHCHR was particularly concerned about the death of a Palestinian in an incident involving Palestinian security forces on

[43] In 2012, the NGO Adalah petitioned the Supreme Court to allow all claimants and their witnesses to enter Israel for legal proceedings, and for clear procedures for issuing permits. The case is pending; see http://adalah.org/eng/Articles/1840/Adalah-Petitions-Israeli-Supreme-Court-against-to.

[44] Civil Case 4416/04, 4417/04, 4418/04 Hadera Magistrate court approved the settlement. Decision of 7 October 2013. See also http://www.hamoked.org/Document.aspx?dID=Updates1169.

[45] arabic.wafa.ps/arabic/index.php?action=detail&id=135872.

27 August 2013 (see A/HRC/25/40 and Corr.1, para. 15). OHCHR has urged the authorities to investigate the incident transparently but is not aware of the results of any investigation, despite the announcement of the formation of an investigation committee shortly after the incident. In response to inquiries regarding the death in custody of a detainee in the Palestinian Preventative Security Bethlehem detention facility, on 23 December 2013, and the death of a Palestinian during an arrest operation in Bethlehem, on 9 December, the authorities allowed for limited but confidential disclosure of the results of the investigation. The Secretary-General is concerned that adequate details were not provided regarding any action taken. The failure to publicly disclose the results of such investigations may undermine public confidence in the authorities, particularly the security forces, and contributes to a culture of impunity.

Technical support

72. OHCHR has engaged with a number of Palestinian institutions to strengthen compliance with human rights. This includes work with the Palestinian Preventive Security in the West Bank, revising the Code of Conduct to make it more compliant with international human rights standards.

73. OHCHR worked with the Palestinian judiciary to study how relevant articles of the penal codes in the West Bank and Gaza, which provide for extenuating circumstances, have been used in cases of so-called honour killings. This revealed how provisions of the Penal Code, in particular articles 98 and 99, are used in judgements leading to mitigated sentences (see A/HRC/25/40 and Corr.1, para. 74).[46] OHCHR has worked with the judiciary to recommend that these provisions should not be used in this manner, and that this interpretation should be circulated to all members of the judiciary. On 18 May 2014, the President issued a decree partially supporting these recommendations.[47]

74. In July 2013, the United Nations country team, together with the Government of the State of Palestine, adopted the first United Nations Development Assistance Framework for the State of Palestine. The Framework outlines the assistance the United Nations plans in order to support the Government in the implementation of the Palestinian National Development Plan 2014-2017, its overarching national development framework, and is rooted in a human rights-based approach.

75. In January 2014, OHCHR and the Government of the State of Palestine adopted the Guidance Document for the Integration of Human Rights into Palestinian National Development Plans. This Guidance Document, created by the Government through a nationally driven process with technical assistance provided by OHCHR, stipulates concrete human rights-based targets and activities. The recommendations of the Guidance Document were incorporated into the Palestinian National Development Plan, and the Guidance Document will serve as a vital tool to monitor the implementation of the Plan, and to ensure that human rights are at the centre of the Government's development efforts.

[46] Extenuating circumstances under article 99 give judges a large margin of appreciation and have been used to reduce the sentences for "honour" killings, in combination with the victim's family's decision to "drop" the victim's personal rights and other extenuating circumstances.

[47] Under the decree, extenuating circumstances in article 98 do not apply to so-called honour crimes.

IV. Recommendations

A. Recommendations to the Government of Israel

76. **The Government of Israel should fully comply with the advisory opinion of the International Court of Justice on the *Legal Consequences of a Wall in the Occupied Palestinian Territory*.**

77. **The Government of Israel should fully lift the blockade of Gaza to remedy the ongoing punitive measures against the civilian population. Any measures restricting the freedom of movement of civilians and the transfer of goods from, into and within Gaza must be consistent with international law.**

78. **The Government of Israel should ensure that the rules of engagement or open fire regulations of Israeli security forces, including in the access restricted areas, are consistent with international law, including by carrying out an independent review and adopting and implementing any necessary revision.**

79. **The Government of Israel should ensure that appropriate orders are issued and that disciplinary and criminal accountability mechanisms are in place and used to ensure the effective implementation of rules of engagement and open fire regulations related to the use of force by Israeli security forces, including in the access-restricted areas, in situations other than hostilities.**

80. **The Government of Israel should take all possible measures to ensure full respect of its obligations under international humanitarian law, in particular the principles of distinction, proportionality and precautions, and international human rights law, during the conduct of hostilities in the Occupied Palestinian Territory.**

81. **The Government of Israel should carry out prompt, thorough, effective, independent and impartial investigations into allegations of unlawful killing or injury, or of torture or other cruel, inhuman or degrading treatment or punishment. Investigations should also be subject to public scrutiny and allow for meaningful victim participation. Individuals who are responsible for violations should be held accountable and prosecuted in fair trials and victims should be provided with an effective remedy. As an initial step to reforming the investigative system, the Government should implement the recommendations of the second report of the Turkel Commission.**

82. **The Government of Israel should rescind all policies and practices that directly or indirectly lead to the forced eviction and/or forcible transfer of civilians, including demolitions and/or confiscations, or plans for demolitions or confiscations, and those that contribute to the creation of a coercive environment that forces Palestinians to leave their homes or land. It should permit and facilitate the return of those communities already affected to the places from which they were evicted and/or transferred and ensure the right to adequate housing and legal security of tenure.**

83. **The Government of Israel should charge or release any detainees held in administrative detention and bring to an end the administrative detention regime.**

B. Recommendations to the Government of the State of Palestine

84. **The Government of the State of Palestine should conduct prompt, thorough, effective, independent and impartial investigations into allegations of unlawful killing or injury, or of torture or cruel, inhuman or degrading treatment or punishment by security forces, as well as any violations of international humanitarian law by Palestinian actors. Such investigations must be transparent and the results made public. Those responsible must be brought to justice in fair trials.**

85. **The Government of the State of Palestine should implement the Palestinian National Development Plan in accordance with the Guidance Document for the Integration of Human Rights into Palestinian National Development Plans.**

86. **The Government of the State of Palestine should ensure compliance with its obligations under international law following accession to a number of international treaties, including eight human rights treaties, and ensure timely, comprehensive and accurate reporting to relevant human rights treaty bodies.**

C. Recommendations to Palestinian armed groups in Gaza

87. **Palestinian armed groups in Gaza must respect international humanitarian law, especially in relation to all rules on the conduct of hostilities, in particular distinction, which includes a prohibition on indiscriminate attacks.**

United Nations A/69/348

General Assembly

Distr.: General
25 August 2014

Original: English

Sixty-ninth session
Item 51 of the provisional agenda*
Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan

Report by the Secretary-General

Summary

The present report, which has been prepared by the Office of the United Nations High Commissioner for Human Rights pursuant to General Assembly resolution 68/82, provides an update on Israel's activities aimed at creating and expanding settlements in the West Bank, including East Jerusalem, and in the occupied Syrian Golan. It focuses on both official and informal methods used by Israel to control land, which is then allocated to settlements. It also provides an update on settler violence and addresses the failure of Israel to maintain public order and ensure accountability for settler violence.

* A/69/150.

14-59693 (E) 220914

Please recycle

I. Introduction

1. In its resolution 68/82, the General Assembly, deploring "settlement activities in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan and any activities involving the confiscation of land, the disruption of the livelihood of protected persons, the forced displacement of civilians and the de facto annexation of land", affirming that "the transfer by the occupying Power of parts of its own civilian population into the territory it occupies constitutes a breach of the Fourth Geneva Convention and relevant provisions of customary law" and expressing grave concern about the continuation of Israel's settlement activities, "in violation of international humanitarian law, relevant United Nations resolutions, the agreements reached between the parties and obligations under the Quartet road map, and in defiance of the calls by the international community to cease all settlement activities", reiterated its demand for the "immediate and complete cessation of all Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan" and called for the prevention of and accountability for illegal acts by Israeli settlers against Palestinians in the occupied territory.

2. The present report, submitted pursuant to that resolution, covers the period from 1 July 2013 to 15 May 2014, although important information about events taking place up until early June 2014 is included, where relevant. The information contained in the report is based on monitoring and other information gathering activities carried out by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and information provided by other United Nations entities in the Occupied Palestinian Territory. The report also contains information received from Israeli and Palestinian non-governmental organizations (NGOs) and media sources. It should be read in conjunction with previous reports of the Secretary-General on Israeli settlements (A/68/513 and A/67/375) and with other reports of the Secretary-General submitted to the General Assembly at its sixty-ninth session, notably the report on Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem (A/69/355).

3. Previous reports highlighted different aspects of the impact of Israeli settlements on the human rights of Palestinians, as well as Israel's leading role in the creation and expansion of settlements. The report provides an update on the settlement activities of the Government of Israel during the reporting period and analyses official and informal methods used by the Government to create and expand settlements. The report also provides an update on settler violence and examines the ongoing failure of Israel to maintain public order and establish accountability for such violence.

II. Legal background

4. The legal framework applicable to Israeli settlements in the Occupied Palestinian Territory and in the occupied Syrian Golan is found in international humanitarian law and international human rights law (see A/68/513, para. 4, and A/67/375, para. 4). The General Assembly (resolution 68/82), the Security Council (resolution 799 (1992)), the Human Rights Council (resolution 25/30) and the International Court of Justice (A/ES-10/273 and Corr.1, para. 101) have all affirmed that the Geneva Convention relative to the Protection of Civilian Persons in Time of

War of 1949 (Fourth Geneva Convention) applies to the Occupied Palestinian Territory. Article 49 of that Convention, in absolute terms, prohibits the Occupying Power from deporting or transferring parts of its own civilian population into the territory it occupies. The Hague Regulations[1] further prohibit an occupying power from undertaking permanent changes in the occupied area unless they are strictly for military necessity or for the benefit of the local population (A/64/516, para. 8).

5. Moreover, the International Court of Justice (A/ES-10/273 and Corr.1, paras. 102-113) and United Nations treaty bodies responsible for reviewing the implementation of international human rights treaties have affirmed that Israel, as the Occupying Power, is bound by the international human rights treaties it has ratified (A/67/375, para. 5) and has the obligation to implement its human rights obligations in the occupied territories.[2] The recent accession by the State of Palestine to several human rights treaties[3] does not affect Israel's obligations under international human rights law and international humanitarian law.

III. Overview

6. During the reporting period, Israel continued to expand existing settlements in occupied territory and to approve new settlements. According to Peace Now, an Israeli NGO, between 1 July 2013 and 15 May 2014, tenders were announced for 6,013 housing units in Israeli settlements in the West Bank, including East Jerusalem, and 9,712 housing units were "promoted",[4] including 7,290 in the West Bank and 2,422 in East Jerusalem. In addition, on 4 June 2014, the Government of Israel announced the issuance of tenders for over 1,400 new settlement units in the West Bank, including East Jerusalem. According to the Office of the United Nations Special Coordinator for the Middle East Peace Process, Israeli authorities have also advanced plans for around 1,000 settlement housing units, following the Government's decision to unfreeze planning processes for 1,800 settlements units. According to Peace Now, Israeli official statistics show new construction and building plans in Israeli settlements increased by over 150 per cent during 2013, and construction began on 828 units in the latter half of 2013 in the Occupied Palestinian Territory compared with 484 units during the same period in 2012.[5]

7. The Secretary-General further notes that the tender or promotion of a large number of units occurred during the last round of Israeli-Palestinian peace talks, held from 29 July 2013 to 29 April 2014, when at least 13,851 housing units were reportedly tendered or promoted in the Israeli settlements in the West Bank, including East Jerusalem. This includes 4,868 tenders, of which 2,248 were in the

[1] The Hague Regulations are annexed to the Hague Convention respecting the Laws and Customs of War on Land of 18 October 1907 (Convention IV). According to the International Court of Justice, while Israel is not a party to that Convention, the Hague Regulations are applicable to Israel as part of customary law (A/ES-10/273 and Corr.1, paras. 89-101).

[2] CERD/C/ISR/CO/14-16, para. 10, CRC/C/ISR/CO/2-4, para. 3, and A/HRC/25/38, para. 5.

[3] In April 2014, the State of Palestine acceded to 20 international treaties, including eight human rights treaties, the four Geneva Conventions of 1949 and First Additional Protocol and the Hague Convention and Regulations.

[4] The term "promote" is used by Peace Now to indicate support from the Government of Israel in advancing new settlement units in the different stages of the planning process (A/HRC/25/38, footnote 10).

[5] See http://peacenow.org.il/eng/9Months.

West Bank and 2,620 in East Jerusalem, and 8,983 promoted plans, including 6,561 in the West Bank and 2,422 in East Jerusalem.[5]

8. During the reporting period, Israel also undertook significant actions to allow for further expansion of its settlements. As outlined in paragraphs 12 to 16 below, this included advancing plans to transfer Palestinian Bedouin communities living in the central West Bank, including the eastern Jerusalem periphery and the Jordan Valley, to three centralized sites planned by the Israeli Civil Administration, apparently in connection with plans to expand settlements in those areas.

9. In addition, Israel continued to support and contribute to the expansion of settlements by providing funding. For instance, almost 600 million shekels (approximately $172 million) were reportedly transferred to Israeli settlements through budget adjustments requested by the Government from the Knesset between October 2013 and March 2014.[6] In line with past practice, these sums were not included in the annual State budget (A/68/513, para. 9). In late March 2014, an additional 177 million shekels (approximately $51 million) were reportedly allocated to the Settlements Division of the World Zionist Organization,[7] the official role of which is to assist the Government in establishing or expanding settlements in the Occupied Palestinian Territory.

10. Ten years after the International Court of Justice issued its 2004 Advisory Opinion on the Legal Consequences of the Construction of the Wall in the Occupied Palestinian Territory, Israel continues to breach international human rights and humanitarian law by building and expanding the wall and the settlements in the West Bank, including East Jerusalem.[8] Since 2004, several new settlements have been established, notably in East Jerusalem,[9] and the settler population in the West Bank, including East Jerusalem, has increased from an estimated 415,000 settlers in 2004 to between 500,000 and 650,000 in 2012 (A/HRC/25/38, para. 8). This represents an increase of at least 85,000 settlers since the issuance by the International Court of Justice of its landmark opinion.

11. Israeli settlements continue to be at the centre of multiple violations of the human rights of Palestinians, including their freedoms of non-discrimination, liberty, security of person and fair trial, freedom of movement, adequate housing, health, education, work and an adequate standard of living (see A/HRC/25/38 and A/68/513). Article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights establishes that all peoples have the right to self-determination and that they may freely determine their political status and freely pursue their economic, social and cultural development. The continuation of the transfer by Israel of its population into the Occupied Palestinian Territory and the maintenance, creation and expansion of Israeli settlements have severe negative impacts on the right to self-determination of

[6] www.haaretz.com/news/national/1.581405.

[7] www.haaretz.com/.premium-1.582875.

[8] The Court indicated that the wall, along the route chosen, and its associated regime gravely infringe a number of human rights of Palestinians residing in the territory occupied by Israel and contravene international humanitarian law provisions, including article 49 of the Fourth Geneva Convention (see A/ES-10/273 and Corr.1, paras. 123-137).

[9] Mostly in East Jerusalem: Nof Zion (2004); Mosrara East (2004); Hashalom Forest (2006); Beit Hachoshen (2006); Beit Yonatan (2006); Kidmat Zion (2006); and Jabel Mukabber (2010). Source: Peace Now.

Palestinian people (A/67/375, para. 10). This right is generally understood as having several elements, including the right to have a demographic and territorial presence and the right to permanent sovereignty over natural resources.[10] Those elements are affected not only by the expansion of Israeli settlements, but also by their mere presence (A/67/375, para. 10) and by the phenomenon of settler violence. The Secretary-General recalls that the realization of the right to self-determination is of particular importance because it is an essential condition for the effective guarantee and observance of human rights and for the promotion and strengthening of those rights.[10] In addition, articles 1(3) of the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, to which Israel is party, establish that States should promote and respect the right to self-determination.

IV. Creation and expansion of settlements

A. Forcible transfer of Palestinian Bedouin and herder communities

12. During the reporting period, Israel took significant steps to facilitate the expansion of its settlements in the West Bank, including East Jerusalem. In particular, it has taken measures aimed at transferring Palestinian Bedouin communities living in the central West Bank, including the eastern Jerusalem periphery and the Jordan Valley, to three centralized sites. On 27 April 2014, at a meeting of a Knesset subcommittee, the Coordinator of Government Activities in the Territories of the Ministry of Defense presented a comprehensive initiative to transfer Palestinian Bedouin communities residing in rural areas within Area C of the central West Bank, including the Jordan Valley, the so-called "E-1"[11] area in the Jerusalem periphery and the Ma'ale Adumim settlement area, to centralized sites planned by the Israeli Civil Administration, namely Al-Jabal, Nweima and Fasayil. It is reported that the Civil Administration is advancing the plans, currently in the final stages of approval, to facilitate the transfer to these three sites.[12] It appears that this initiative is connected with plans to expand settlements which would affect thousands of Palestinian Bedouins and herders, including approximately 2,300 currently living in the eastern Jerusalem periphery. Such transfers would also adversely affect the traditional economy of the affected communities and would likely lead to the disintegration of their social fabric (A/HRC/24/30, para. 27).

13. According to the Office of the Special Coordinator for the Middle East Peace Process, the Civil Administration has recently increased pressure on these Bedouin communities to leave their places of residence by issuing and enforcing more demolition orders, stop-work and seizure orders against residential and agricultural structures. It is of concern that between January and May 2014, 13 demolitions have been reported in the E-1 area, which is higher than the total number of demolitions carried out between 2010 and 2013 (11). Moreover, according to the Norwegian

[10] Human Rights Committee, general comment 12 (HRI/GEN/1/Rev.9 (Vol. I), chap. I).

[11] The area is within the municipal boundary of the Ma'ale Adumim settlement, adjacent to East Jerusalem. Plans to construct settlements in the E-1 area would create an urban block between Ma'ale Adumim and Jerusalem, exacerbate the isolation of East Jerusalem from the rest of the West Bank and interrupt the territorial contiguity of the West Bank (A/HRC/25/38, footnote 17).

[12] According to Bimkom, an Israeli NGO, plans for Nweima and for Fasayil were approved for publication on 15 June 2014 by the High Planning Council of Judea and Samaria.

Refugee Council, during the reporting period more than 100 stop-work and demolition orders have been issued by the Civil Administration targeting different Bedouin communities in the E-1 area.

14. On 28 April 2014, as reported in an OHCHR press release, 40 members from the Sateh Al-Bahr community received eviction orders and were given 48 hours to leave their homes permanently or face eviction and confiscation of their livestock. During a court hearing on this case and on a case relating to a school building in the Khan al Ahmar community, the Israeli Government proposed to relocate both communities to Nweima, one of the centralized sites referred to above. Other communities have also been told informally by the Civil Administration that they would be relocated to Nweima.

15. It is reported that the Israeli military is using military firing zones as a way to push Palestinians out of certain areas.[13] At the above-mentioned Knesset meeting, an operations officer of the Central Command confirmed that the army has increased the number of military exercises in the military firing zones in the Jordan Valley. It is of serious concern that the implementation of recent demolitions, eviction and seizure orders against Palestinian Bedouin communities appear to pave the way for broader plans to relocate or transfer them outside their current locations and to allow for further expansion of settlements.

16. According to the United Nations Office for the Coordination of Humanitarian Affairs, there has been almost no consultation on the transfer plans with the affected communities. Except where the affected persons provide their genuine and fully informed consent, such transfer is forcible. Consent would not be genuine in an environment marked by the use or threat of physical force, coercion, fear of violence or duress (A/67/372, para. 37). The Office reports that a combination of measures implemented by Israeli authorities have created a coercive environment for the targeted communities, including restricted access to grazing lands and markets for their products, which undermines their livelihoods, demolitions and threat of demolitions, and restrictions to the obtaining of building permits. The transfer, if implemented, may thus amount to individual and mass forcible transfer, contrary to Israel's obligations under article 49 of the Fourth Geneva Convention and international humanitarian law. Under article 147 of the Convention, the unlawful transfer of protected persons constitutes a grave breach of its provisions,[14] and such acts potentially incur the individual criminal responsibility of officials engaged in forcible transfers. In addition, the transfer of these Palestinian Bedouin communities would contravene Israel's international human rights law obligations, in particular regarding the right to adequate housing (A/HRC/25/38, paras. 15 and 16).

B. Creation and expansion of settlements through official methods

17. One of the methods used by Israel in the 1980s and 1990s to seize land for the purpose of settlement construction and expansion was the declaration of State land. Such declarations are based on civilian laws in place prior to the occupation, which

[13] www.haaretz.com/news/diplomacy-defense/.premium-1.591881.

[14] The exception to this provision, in which the safety of the protected persons makes the forcible transfer absolutely necessary, is not applicable in this case. International Committee of the Red Cross, "Commentary, IV Geneva Convention relative to the protection of civilian persons in time of war".

Israel interprets as allowing the occupying Power to take possession of uncultivated land (A/63/519, para. 19). Currently, at least 16 per cent of the West Bank has been declared State land and is used for settlements (A/68/513, para. 20).

18. Since 2013, a recurrence of the practice of claiming land as State land was reported. The body responsible for this is the "Blue Line Task Force", created in 1999 by the Civil Administration to re-examine land not clearly designated as State land during the 1980s. The examination and endorsement conducted by this task force is a precondition for any new settlement construction plan to be undertaken in land designated as State land. The task force reportedly endorsed some 7,000 acres (28,000 dunams) as State land in 2013, of which around 5,000 acres (22,058 dunams) are within settlement boundaries and could become sites for planned construction. About 900 acres (3,700 dunams) are on land already developed, which may indicate that the declaration as State land was used to retroactively legitimize the settlement construction.[15]

19. In April 2014, the Blue Line Task Force endorsed the declaration of approximately 250 acres (1,000 dunams) in the West Bank as State land. Some Israeli media reported this as the largest appropriation of land in the West Bank in many years.[16] The land is located west of Bethlehem within the physical boundaries of the villages of Al Khader, Nahhalin and Beit Ummar. According to the Office for the Coordination of Humanitarian Affairs, several residents of these villages claim ownership over parts of the land, but due to a range of mainly Israeli-imposed constraints, they have not cultivated or otherwise used it, with the exception of about five acres (20 dunams). Some of the plots have been taken over by Israeli settlers in past years and the declaration of State land appears to be part of a process towards the retroactive "legalization" under Israeli law of the takeovers, including those in the outpost Nativ Ha'avot.[17] Based on their ownership claims, residents of the aforementioned villages were given 45 days to object to the declaration of their property as State land before the Military Appeals Committee. This period was further extended until 17 July 2014. If their objection is rejected, they can petition the Supreme Court. However, concerns have been raised, notably by the NGOs Diakonia and Action against Hunger, that the Supreme Court does not provide an effective remedy for Palestinians whose private land has been declared State land, in particular because the Court does not review the substance of the cases[18] and in the majority of its rulings, it follows the Civil Administration policy on land requisition.

20. Previous practice indicates that once the declaration of State land is endorsed, it is likely that the land is allocated to Israeli settlements for development. According to the Office for the Coordination of Humanitarian Affairs, given the spatial distribution of the affected parcels of land, their development will encircle a

[15] www.haaretz.com/news/diplomacy-defense/.premium-1.587901#.

[16] www.haaretz.com/news/national/.premium-1.585377.

[17] Reportedly, an official Israeli survey showed that 60 per cent of the outpost (established in 2001) was built on private Palestinian farmland.

[18] The Court can exercise judicial review over decisions of the Military Commander, which, according to the Court, must exercise careful consideration before requisitioning property of civilians in the Occupied Palestinian Territory. However, the Court has upheld decisions regarding the issuance of requisition orders pertaining to Palestinians' private property claiming that there is "no cause to intervene in the discretion of the Commander" (High Court of Justice 10356/02, Hass et al. v. IDF Commander in the West Bank et al.; and High Court of Justice 10497/02, The City of Hebron et al. v. IDF Commander in the West Bank et al.).

large section of the Gush Etzion area, connecting and creating territorial contiguity between the settlements of El'azar, Allon Shvut, Rosh Zurim, Neve Danyyel and Efrata. It is expected that Palestinians would face increased restrictions to access their farmlands located within the encircled area (A/67/375, paras. 20 and 21), even if many plots cultivated by them are not covered by the declaration of State land. Access by Palestinian farmers would be further restricted if the wall is completed as planned, thereby separating these lands from the Bethlehem urban area, where some of the landowners reside. In addition, it has been reported on the Business Insider news website that on 28 May 2014 Palestinian residents in the surroundings of Kafr Al-Deek in the northern West Bank were notified of the start of settlement construction on lands they claim as their private property. It appears from information gathered by the NGO Kerem Navot that this action follows the declaration of State land of almost 120 acres (500 dunams) in the area, dating back to 1985.

21. The resumption of the use of declarations of State land, coupled with the large amount of land seized through this method, may be a sign of a broader policy change. The Secretary-General reiterates that the process of declaring State land is not compatible with international standards of due process and undermines the right of Palestinians to an effective remedy. It also appears to be a measure by the Government of Israel destined to favour the expansion of settlements or the creation of new ones, which may amount to the transfer by Israel of its population into the Occupied Territory in violation of international humanitarian law (A/67/375, para. 10).

22. According to Peace Now, two new settlements were created in the Occupied Palestinian Territory during the reporting period: the settlement of Leshem, near Salfit in the central West Bank, where 60 families have recently moved to, and another known as the Al-Rajabi house. The case of the Al-Rajabi house, a four-story building capable of housing 40 families, is emblematic since it is located in a strategic area between the settlement of Kiryat Arba and the Ibrahimi Mosque, also known as Cave of Patriarchs, in the old city of Hebron. According to the Special Rapporteur on the situation of human rights in the Palestinian Territories occupied since 1967, this is the first time since the 1980s that a new settlement has been created in the centre of Hebron.

23. In March 2014, as reported by OHCHR, the Israeli Supreme Court ruled that Israeli settlers were the legitimate owners of the Al-Rajabi house, after a long legal dispute between the settlers and Palestinians who alleged being tricked by the settlers because they sold the house without knowing that the settlers were the actual buyers. The Court indicated that the settlers would be allowed to move to the house only after the approval of the Minster of Defense. In April 2014, the Minister of Defense granted the approval, and, since then, at least three families reportedly have moved into the house, despite not having electricity or running water.[19]

24. According to Peace Now, at least seven new outposts were established during the reporting period, including Givat Eitam, an agricultural outpost located south of Bethlehem, and Brosh, an outpost situated in the Jordan Valley. Kerem Navot reports that an abandoned military base east of Beit Sahur in the Bethlehem Governorate is also undergoing renovation by Israeli settlers who have established a

[19] www.jpost.com/Diplomacy-and-Politics/Yaalon-Settlers-can-move-into-Hebron-house-348388.

cultural centre there. From Peace Now there are reports that other outposts have been "legalized" under Israeli law by promoting plans for them,[5] including Nahlei Tal and Zayit Ra'anan, near Ramallah; Givat Salit, in the Jordan Valley; and Elmatan, near Qalqilya. Since January 2013, nine outposts[20] have reportedly been included in the mapping conducted by the Blue Line Task Force towards endorsement of State land declarations. If the lands in which these outposts are erected are confirmed as State land, the path towards their retroactive "legalization" and future expansion as a fully-fledged settlement will be open.

25. With some exceptions, Israel continued to fail to implement demolition orders against outposts, despite the fact that they are not officially recognized under Israeli law. For example, in early January 2014, Peace Now called on the Government to implement outstanding demolition orders against Esh Kodesh outpost, following an incident in which settlers attacked the neighbouring Palestinian village of Qusra, apparently as retaliation for the evacuation by the Israeli army of a plot of private Palestinian land taken over by Esh Kodesh settlers.[21] The residents of Esh Kodesh often attack the Palestinian village, which frequently results in serious injuries to Palestinians and damage to their property (A/68/513, para. 45). However, as of May 2014, most of the demolition orders against the outpost remained unimplemented.

26. In another case, the Government reportedly committed itself to demolishing the entire Amona outpost by end 2012, and later postponed demolition to June 2013.[22] At the end of the reporting period, according to the Yesh Din, a volunteer organization working to defend the human rights of Palestinians, the demolition had still not been implemented, despite an order of July 2013 by the President of the Israeli Supreme Court for the evacuation of all the structures, except for the houses built on plots for which the settlers made purchase claims. A few days before the outpost was scheduled to be dismantled, a settler organization (Al-Watan) claimed that it had purchased portions of land within its boundaries. The Government reportedly decided to freeze the demolitions until an Israeli court passed judgement on the status of the lands allegedly purchased by this settler organization, in contradiction with its pledge to remove the outpost. In May 2014, Israeli media reported that a police investigation found that the documents presented as proof of purchase of the land in the Amona outpost by Al-Watan were forged. The Government is considering how to proceed.[23]

27. In some cases, Israel has dismantled outpost structures, in line with legal rulings on the matter. For example, on 14 May 2014, according to the United Nations Special Coordinator for the Middle East Peace Process, 10 structures in the outpost of Ma'ale Rehavam were demolished after the Israeli Supreme Court rejected claims by settlers that the land on which the structures were located was purchased legally. This followed a decision of the Israeli Supreme Court on 18 November 2013 to demolish houses erected on private Palestinian property in three outposts, Givat Assaf, Mizpe Yitzhar and Ma'aleh Rehavam, within six

[20] Givat Harel, Elmatan, Elisha, Ibei Hanachal Alonei Shilo, Ma'ale Rehavam and three outposts located east of Tekoa (source: Kerem Navot).

[21] According to a report from the Office for the Coordination of Humanitarian Affairs, following the attack, Palestinians apprehended and beat the settlers. Other Palestinians and human rights activists intervened and handed the settlers over to the Israeli Security Forces.

[22] The Government made these commitments before the Israeli Supreme Court, following a 2008 petition by the Palestinian owners of the land to evacuate the outpost.

[23] www.haaretz.com/news/national/.premium-1.592768.

months. In the same decision, the Court ordered the Government to show progress towards "legalizing" structures allegedly on State land in five other outposts cited in a petition filed by Peace Now, including Mitzpe Lachish, Ramat Gilad and HaRoeh.[24] It is expected that other buildings in Ma'ale Rehavam, which the Court found had been built "legally", will receive permits, thus endorsing the "legality" of the outpost's existence.[25]

C. Expansion of settlements through informal methods

Control of land through agriculture

28. Along with the official methods by which the Government of Israel seeks to take control of land that is subsequently allocated to settlements (A/68/513, paras. 17-22), it appears that the Government has also encouraged takeovers of land by Israeli settlers through agricultural projects.[26] A study commissioned in 2005 by the Government of Israel on outposts in the West Bank indicated that one way that settlers establish outposts is to falsely request the creation of an agricultural farm, which is then transformed into an outpost. This is facilitated by the fact that agricultural projects do not need political-level approval. It is reported by Kerem Navot that, as of August 2013, Israeli settler agriculture in the West Bank covers around 23,000 acres (93,000 dunams), more than the built-up area of settlements and outposts, excluding those in East Jerusalem, constituting about 15,000 acres (60,000 dunams). Most of this increase has occurred after the signing of the Oslo Accords in September 1993. Between 1997 and 2012, land used by Israelis for agriculture in the West Bank grew by 35 per cent.[27]

29. In addition, Israel continues to fail to protect Palestinians and Palestinian property from criminal attacks by settlers (see paras. 36-44 below), including the construction of physical obstacles impeding the access of Palestinians to their own farmlands, intimidation and violence against Palestinian farmers (A/67/375, para. 19), and destruction of trees and crops. According to the United Nations Office for the Coordination of Humanitarian Affairs, during the reporting period, there were 217 incidents involving damage to Palestinian property by Israeli settlers, including to 10,711 trees. The lack of enforcement and of accountability in relation to such violent acts creates an atmosphere of impunity that facilitates the seizing of land by settlers, which they can then cultivate in order to expand the area effectively occupied by settlements (see A/67/375, paras. 30-36, and A/68/513, paras. 42-49). The Yesh Din volunteer organization reports that the vast majority of cases accusing settlers of seizing Palestinian land, including by trespassing and unauthorized cultivation, are closed without indictment.

---

[24] www.haaretz.com/news/diplomacy-defense/.premium-1.558882.

[25] www.timesofisrael.com/amid-fears-of-violence-demolition-of-west-bank-outposts-begins.

[26] Agriculture provides economic support to settlements and enables settlers to seize large portions of land without undertaking costly infrastructure construction (see Kerem Navot, "Israeli settlers' agriculture", 2013).

[27] Israeli agriculture in the West Bank by 1997 covered around 69,000 dunams (see Kerem Navot, "Israeli settlers' agriculture", 2013).

30. The Israeli NGO Kerem Navot reports that the fastest growth of Israeli settler agriculture is taking place in the West Bank Hill Country,[28] and is linked to numerous restrictions affecting Palestinian farmers' access to agricultural fields, (A/67/375, paras. 19-21). It argues that privately owned Palestinian land situated around most settlements in these areas has been appropriated de facto by settlers for agricultural use, with the support of the Israeli military present in the settlements. Kerem Navot has reported that between 1997 and 2012, Israeli settler agriculture increased in areas close to Ramallah (by 64 per cent), Hebron (by 61 per cent) and Nablus (by 89 per cent).[29]

31. The situation is different in the Jordan Valley because a significant proportion of the land there was already registered as State land under the Jordanian administration, predating the occupation, and there was no extensive Palestinian farming in the early days of the occupation. This enabled Israel to seize large portions of land, which were then transferred for settlements.[30] In addition, Israel created an extended closed military zone along the border with Jordan, covering approximately 41,000 acres (167,000 dunams) of land that was previously farmed by Palestinians and now is off limits to them.[31] Currently, there are 37 settlements in the Jordan Valley, with the settlement authorities (regional councils) controlling 86 per cent of the land.[32] According to Kerem Navot, the Jordan Valley constitutes 85 per cent of the entire Israeli agricultural area in the West Bank.

32. In contrast, Palestinian agriculture is in decline. Cultivated areas in the West Bank shrank by 30 per cent between the 1960s and the 1990s, mainly due to land confiscation and restrictions on access to land and to water resources imposed by Israel on the Palestinian population (A/68/513, paras. 36-41).[33] This correlates to figures showing that around 40 per cent of Israeli settler agriculture in the West Bank is farmed on privately owned Palestinian land.[28] The decline is further reflected in figures on exports of agricultural products. Every year, Israeli settlers export around $285 million worth of agricultural products, whereas Palestinians only export $19 million. Approximately 28 per cent of the total Israeli agricultural exports come from products grown in the West Bank and in the occupied Syrian Golan.[34]

Archaeological excavations and parks

33. Archaeological excavations and parks are also used as a way to control land for settlements, mainly through the funding, participation and endorsement by the Government of Israel of archaeological projects led by settler organizations.

[28] Kerem Navot uses the term West Bank Hill Country to designate the ridge running north-south along highway 60 which connects the Northern and the Southern West Bank (see Kerem Navot, "Israeli settlers' agriculture", 2013).

[29] See Kerem Navot, "Israeli settlers' agriculture", 2013.

[30] See B'tselem, *Land Grab, Israel's settlements policy in the West Bank*, 2002.

[31] Thousands of dunams within this area appear to have been transferred to settlements. Settlers with special permits cultivate around 8,500 dunams (see Kerem Navot, "Israeli settlers' agriculture", 2013).

[32] See OXFAM briefing paper, "On the Brink, Israeli settlements and their impact on Palestinians in the Jordan Valley", 2012.

[33] See www.ewash.org/files/library/WBfactsheet fianl march9[1].pdf.

[34] Who Profits from the Occupation, "Made in Israel: agricultural exports from the occupied territories" (see http://www.whoprofits.org/sites/default/files/made_in_israel_web_final.pdf).

Observer organizations report that several archaeological projects in the Old City of Jerusalem are being used as a means to consolidate the presence of settlements and settlers in the area.[35] On 3 April 2014, despite several objections presented by Palestinian residents of the Silwan neighbourhood, a Palestinian community with a population of 45,000, located around the southern Old City wall in East Jerusalem, the Jerusalem District Planning and Building Committee approved a project known as the Kedem Compound.[36] The Kedem Compound includes a museum, a visitors centre, and a parking lot covering around 16,000 square metres. The plan was presented by Israel's Nature and Parks Authority and the Ir David Foundation, also known as Elad, which works to strengthen the Jewish connection to Jerusalem, notably the Silwan area.[37] The Kedem Compound would constitute a gateway to the City of David National Park, a touristic archaeological site controlled by the same organization.[38]

34. Furthermore, Elad presented plans, covering an estimated area of 1,200 square metres for the construction of another tourist compound above a site known as the spring house in Silwan, an ancient structure built above the main spring.[39] Palestinians in the area have been prevented from accessing one of their main sources of water, since Elad has blocked the entrance to the spring by walls and fences.[40] According to the Ir Amim archaeological organization, the plan was submitted for objections in February 2014. According to Emek Shaveh, an organization of archaeologists, an examination of the placement of the excavations and the planned tourist centres (the Kedem Compound, the City of David Visitors Centre, and the Spring House tourist centre) shows that a contiguous line of Israeli settler presence along the entire northern boundary of the Silwan area is being created.[41]

35. Archaeological excavations are also taking place in Hebron City in the archaeological mound known as Tel Rumeida, located in the south-western edge of the H-2 area.[42] Israel's Ministry of Culture and the Israel Civil Administration finance them, with the participation of Israel's Antiquities Authority and the University of Ariel, located in one of the biggest Israeli settlements in the West Bank. The works started in January 2014 and are reportedly planned to cover around one acre and a half (six dunams).[43] According to some observers, the archaeological park would connect the excavations area with three Israeli settlements on al-Shuhada Street[44] in the H-2 area, to which Palestinians are denied access.[45] Palestinians in and around the H-2 area have seen their freedom of movement

[35] Source: Emek Shaveh and Ir Amim organizations.

[36] http://www.civiccoalition-jerusalem.org/system/files/silwan_factsheet_2_2014.pdf.

[37] www.haaretz.com/news/national/.premium-1.576207.

[38] www.haaretz.com/news/national/.premium-1.583518 and www.haaretz.com/news/middle-east/1.583763.

[39] See http://alt-arch.org/en/press-release-tourist-center-at-the-spring-house-beit-hamaayan.

[40] http://www.ewash.org/files/library/Through%20the%20camera%20lens.pdf.

[41] http://alt-arch.org/en/press-release-tourist-center-at-the-spring-house-beit-hamaayan.

[42] The H-2 area constitutes 20 per cent of Hebron City, which is fully controlled by Israel as a result of the Oslo accords. The excavations are being carried out in the spaces between Palestinian houses built at the top of the mound.

[43] www.haaretz.com/news/diplomacy-defense/.premium-1.567694.

[44] Beit Hadassah, Beit Romano and Avraham Avinu.

[45] Emek Shaveh, "Archaeology in the shadow of the conflict" (http://alt-arch.org/en/tel-rumeida-the-future-archaeological-park-of-hebron).

severely restricted. This, compounded by the systematic harassment by Israeli settlers and often by the Israel Defense Forces (IDF), has resulted, according to the Office for the Coordination of Humanitarian Affairs, in the displacement of thousands of Palestinians and the deterioration of living conditions of those who have remained. There are concerns that this park would create a new settlement enclave in the heart of Hebron, thereby increasing the Israeli settler presence inside the city and negatively impacting the rights of Palestinians, with risks of increased settler violence and heightened restrictions on their freedom of movement.

V. Settler violence, failure to maintain public order and lack of accountability

36. Under article 43 of the Hague Convention and international human rights law, Israel has the obligation to protect the rights of Palestinians and, as occupying Power, the obligation to maintain public order and safety in the Occupied Palestinian Territory, including by providing Palestinians with all guarantees accorded to protected persons under international humanitarian law.[46]

37. Acts of violence by Israeli settlers against Palestinians and their property continue to take place on a regular basis. As in the past, most incidents appear to aim at intimidating Palestinians in order to obtain control of certain geographic locations (A/66/364, para. 21). During the reporting period, there were 271 incidents reported, including 217 involving property damage (see paras. 28-35 above), and 61 involving attacks on Palestinians that resulted in the injury of 108 persons, including 32 children and 11 women. This constitutes a decrease compared with the same period between 2012 and 2013, when 357 incidents were recorded, including 270 involving damage to property and 87 attacks on Palestinians, resulting in the injury of 171 persons, including 35 children. The number of attacks by Palestinians against Israeli settlers also decreased. During the reporting period, the Office for the Coordination of Humanitarian Affairs lists 39 incidents, including 12 cases of property damage and the injury of 48 Israeli settlers, including five children.

38. Attacks against Palestinians and their property were most frequent in the Governorates of Nablus, Ramallah, Hebron and in East Jerusalem. The Office for the Coordination of Humanitarian Affairs reported that these locations also registered a higher number of incidents of settler violence between July 2012 and May 2013. Also according to the Office for the Coordination of Humanitarian Affairs, the highest number of incidents was recorded in the Nablus Governorate, where there were 70 incidents, 15 involving physical violence, resulting in the injury of 20 Palestinians, and 55 involving attacks on Palestinian property, including damage to 2,486 trees.

39. Cases monitored by OHCHR illustrate how settler violence, coupled with actions by Israeli authorities, including harassment, violent search operations and arbitrary detentions, have affected a range of human rights of Palestinians, including the rights to private and family life, fair trial and adequate standard of living. One such case involved a Palestinian man and his family living on their 5 acre (22 dunams) farm on the outskirts of the Palestinian village of Lubban ash-Sharqiya, some 30 kilometres south of Nablus city near the Israeli settlements of Eli, Shilo

[46] Fourth Geneva Convention, articles 4 and 27.

and Ma'le Levona. The family has repeatedly been the target of attacks by settlers leading to injuries and damage to their property. Also, the Palestinian man has been arrested several times by the Israel Defense Forces. On 16 April 2014, 17 settlers, led by a rabbi, tried to enter their home to pray in the "Jewish" building. When the man denied them entry, the settlers tried, unsuccessfully, to knock down the farm gate. They later returned to the farm and proceeded to throw stones at the house, in which eight family members, including three children, were located. Shortly thereafter, IDF soldiers arrived and asked the man about a knife which they claimed he had used to attack a settler. One of the soldiers allegedly picked up a poleaxe from the orchards and accused the man of attempting to attack the settlers with it. Israeli police then arrived and arrested the Palestinian man, allegedly without informing him of the reasons of his arrest. The man was brought before an Israeli military court, accused of attacking a settler with a knife and a poleaxe and of planning to kill a settler by pushing him into a well on the farm. He was released on bail on 24 April. During his detention, his son was reportedly injured by IDF and on 26 April 2014, the same son was reportedly arrested by the Forces. At the time of writing, OHCHR had not been able to establish the reasons for the arrest. On 27 April, citing a lack of a building permit, the Palestinian man received a demolition order against the farm gate and some trees and stone walls that he had built in an area between the farm gate and his house.

40. As previously reported, IDF often fails to take appropriate measures to protect Palestinians against acts of violence perpetrated when soldiers are present (A/67/375, paras. 30-32, and A/66/364, paras. 23-25). During the reporting period, such incidents continued to be reported. For example, in a case monitored by OHCHR, on 7 March 2014, four settlers reportedly from Bet El settlement hurled stones at a car of a Palestinian photographer working for Agence France Press, breaking the windshield. The photographer was on his way to cover the Friday demonstrations in the Al-Jalazun refugee camp. IDF soldiers, present at the time, did not intervene until the photographer left his car and started to hurl stones back at the settlers. The photographer sustained light injuries to his arms while trying to protect his face from the stones. Despite still being on site, none of the settlers were arrested by the Israeli police. The photographer filed a complaint in the Israeli police station in Benyamin settlement, and submitted photographs and videos taken by fellow journalists showing the identity of his attackers.

41. The fact that Israeli authorities are able to take effective action against settler violence is demonstrated in a case where, on 8 April 2014, Israeli settlers attacked IDF soldiers and an IDF post following the demolition of some structures in Yitzhar settlement. Media reported that five people were arrested[47] and that the Israeli Government announced a policy of "zero tolerance" towards settlers attacking the authorities.[48] It was reported that IDF immediately decided to station a company of border police at Yitzhar.[49]

[47] www.ynetnews.com/articles/0,7340,L-4508832,00.html.

[48] rt.com/news/israeli-settlers-attack-idf-297.

[49] www.jpost.com/Defense/IDF-responds-to-violence-at-Yitzhar-Deploys-Border-Police-unit-to-West-Bank-settlement-348268. Reportedly, soldiers were stationed at the Yeshiva religious school which settlers had used as a base to attack Palestinian villages, as well as Israeli security forces.

42. East Jerusalem is another area particularly affected by settler violence. According to the Office for the Coordination of Humanitarian Affairs, during the reporting period, 50 incidents were recorded in East Jerusalem, including 16 physical attacks, resulting in 30 injuries, and 34 incidents of damage being done to property. Incidents at two locations, namely the Sheikh Jarrah neighbourhood and the Old City, increased between 2012 and 2013.

43. Of particular concern is the increase in reported incidents of settler violence in the Old City, which rose from 3 in 2012 to 17 in 2013. On 14 August 2013, OHCHR monitored a case in which a Palestinian family was attacked by around 40 Israeli religious students from a Talmudic school located near the family's house in the Al-Qerami neighbourhood of the Old City. The family, composed of the parents and three children, were walking towards their house, when they were attacked by the religious students with wooden and metal sticks and metal chains. As a result of the attack, all members of the family were injured; the mother and one of the sons suffered serious injuries and were hospitalized. The Israeli police intervened to stop the attack and arrested seven people. That same evening, the police asked the eldest son of the family to go to the police station to identify the attackers. Although he reportedly recognized five of them, it appears that some may have been released.[50]

44. Even if attacks by settlers appear to occur consistently in the same areas, Israel has not taken effective measures to prevent such attacks. This is compounded by the persistent lack of accountability for attacks by settlers. Although some positive measures have been taken, including the recent arrest of some Israeli citizens suspected of committing so-called "price tag" attacks,[51] the situation remains largely unchanged since the last report of the Secretary-General to the General Assembly (A/68/513), which indicated that between 2005 and 2013, only 8.5 per cent of investigations on incidents of settler violence against Palestinians in the West Bank resulted in indictments.

VI. Settlements in the occupied Syrian Golan

45. In the occupied Syrian Golan, Israeli authorities continued to consolidate the presence of Israeli settlements during the reporting period. In January 2014, the Government of Israel approved a five-year plan for the development of around 30,000 dunams of land near existing settlements. The development plan involves the removal of mines and the improvement of water infrastructure systems in order to grant agricultural plots of land for up to 750 settler families for farming.[52] The Government is reported to have set aside over 375 million shekels for this purpose.[53] This strategy of focusing on agricultural development of the occupied Syrian Golan to control the land appears to be similar to the approach taken by Israel in the West Bank.

---

[50] The suspects were reportedly seen in the neighbourhood. As of mid-May 2014, no information was available on the state of the investigation.

[51] http://www.jpost.com/National-News/Police-Yitzhar-teens-arrested-for-price-tag-against-Israeli-Arabs-to-face-indictment-353112.

[52] The Israeli settler population in the occupied Syrian Golan is currently estimated to be around 20,000 (A/68/513, para. 53).

[53] www.haaretz.com/news/national/.premium.1568172.

46. The Government-sponsored agricultural expansion has also been linked to Israel's efforts to increase the settler presence in the occupied Syrian Golan for the purpose of further exploiting the natural resources of the territory for economic gain.[54] This is in violation of Israel's obligations under international humanitarian law and numerous United Nations resolutions, notably Security Council resolution 497. In this connection, the Secretary-General has previously raised concerns regarding Israeli Government-sponsored investments in the occupied Syrian Golan, including licences granted for oil and gas exploration by multinational companies (A/HRC/25/38, para. 48, and A/68/513, paras. 53 and 54). The Secretary-General notes that the Governments of France, Germany, Italy, Spain, and the United Kingdom of Great Britain and Northern Ireland have all recently issued warnings to their citizens outlining the legal and financial risks of doing business with Israeli settlements, including in the occupied Syrian Golan.[55]

VII. Conclusions and recommendations

47. **Israel continues to violate its international legal obligations and commitments under the road map, and fails to heed the repeated calls from the international community to cease transferring its civilian population into occupied territory.**

48. **Israel plays a leading role in the establishment and expansion of Israeli settlements in the West Bank, including East Jerusalem, and in the occupied Syrian Golan, including by using its legal system to seize land, which is later allocated to settlements, and by expanding the area effectively occupied by settlements. Israel must implement relevant United Nations resolutions, including Security Council resolution 497 (1981), and withdraw from territories occupied in 1967.**

49. **Israel continues to fail to protect Palestinians from violent acts committed by Israeli settlers, in contravention of its international obligation as the occupying Power to maintain public order and safety in the occupied territory. Israel continues to fail to ensure accountability for settler violence.**

50. **Israeli settlements in the West Bank, including East Jerusalem lead to multiple violations of the human rights of Palestinians. Israel must abide by its international obligations by respecting, protecting and fulfilling the rights of Palestinians, as contained in international human rights law. In addition, Israel, as the occupying Power, must ensure that Palestinians are afforded the protection provided under international humanitarian law for protected persons.**

51. **Israel is called on to put an end to the creation and expansion of settlements in the Occupied Palestinian Territory and in the occupied Syrian Golan. In particular, it should cease using its legal system to control land which is then allocated to settlements, specifically through declarations and endorsements of State land. In addition, the Secretary-General calls on Israel to immediately stop using informal land control methods, such as agriculture and**

[54] http://golan-marsad.org/wp-content/uploads/Settlement-Agricultural-Expansion-in-the-Golan-Final-editedCrystal.pdf.

[55] www.haaretz.com/news/diplomacy-defense/.premium-1601631.

archaeological parks, aimed at expanding the area effectively occupied by settlements. In this regard, Israel must take action against settlers who take over land, including by agricultural activities.

52. Moreover, Israel must stop the funding, support and participation in archaeological projects, often managed by settler organizations, which contribute to the consolidation of settler presence in the Occupied Palestinian Territory and could result in several violations of the rights of Palestinians, including their right to freedom of movement.

53. The forcible transfer of the Palestinian population, including the Bedouin communities and herders currently residing in the central West Bank and the eastern Jerusalem periphery, violates Israel's obligations under international humanitarian and international human rights law. Therefore, plans that would result in the forcible transfer of such communities should be halted immediately.

54. Israel also has an obligation under international law to provide Palestinian communities in Area C, including the Bedouin communities and herders at risk of forcible transfer, with adequate housing, security of tenure and access to water and services, including health and education, in their current locations.

55. Israel, as the occupying Power, is obliged to prevent violent attacks by Israeli settlers against Palestinians, in particular in geographic locations where such acts are known to occur persistently. Israel must take all measures to ensure that all acts of violence committed by Israeli settlers against Palestinians and their property are investigated independently, impartially, thoroughly, promptly, effectively and in a non-discriminatory manner. Investigations should allow for public scrutiny and the participation of victims. Individuals responsible for violations should be prosecuted and victims should be granted effective remedies.

United Nations A/69/349

General Assembly

Distr.: General
4 September 2014

Original: English

Sixty-ninth session
Item 50 of the provisional agenda*
United Nations Relief and Works Agency for Palestine Refugees in the Near East

Report of the United Nations Conciliation Commission for Palestine

Note by the Secretary-General

The sixty-eighth report of the United Nations Conciliation Commission for Palestine, covering the period from 1 September 2013 to 31 August 2014, was transmitted by the Chair of the Commission for communication to the States Members of the United Nations in accordance with paragraph 6 of General Assembly resolution 512 (VI) and paragraph 2 of Assembly resolution 68/76. The text of the report of the Commission is contained in the annex to the present note.

* A/69/150.

14-59671 (E) 090914

Please recycle

Annex

Sixty-eighth report of the United Nations Conciliation Commission for Palestine

In paragraph 2 of its resolution 68/76, the General Assembly requested the United Nations Conciliation Commission for Palestine to report to the Assembly as appropriate, but no later than 1 September 2014. The Commission takes note of its previous report (A/68/335, annex) and observes that it has nothing new to report since its submission.